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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/557,531

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Norbert Egger

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EXAMINER

SCHOEMER, ZACKARY T

ART UNIT

PAPER NUMBER

3764

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/557,531	Applicant(s) EGGER, NORBERT	
	Examiner ZACKARY SCHOEMER	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20070326</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed March 26, 2007 fails to comply with 37 CFR 1.98(a)(2) and (3), which requires a legible copy of each cited foreign patent document and a English translation of the cited foreign patent; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. The two foreign patents lack an English translation and therefore have not been considered by the Examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, and 6-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Abe et al. (US Pat. No. 5,807,215). Abe et al. discloses a retrofit kit (110, Fig. 8) for a training device, the training device being adapted to be operated by a training force applied by an individual (Fig. 8) and having at least one training weight (108, Fig. 8) to produce a counter-force opposing the training force due to the at least one training weight, the retrofit kit comprising: an oscillation generating device (104, 106, 114, 116, 118, Fig. 8, (The ones inside 110)) adapted to be fitted to the training device (1, Fig. 1

below) and to generate an oscillation acting on and modulating the counterforce, the oscillation generating device being formed as a single weight (Fig. 8).

4. In regards to claim 2, Abe et al. discloses the kit wherein the oscillation generating device is adapted to be fitted to at least one training weight (1, Fig. 1 below).

5. In regards to claim 6, Abe et al. discloses the kit wherein a portion of the oscillation generating device is adapted to be fitted to the training device and is adapted to be moved in response to the training force (110, Fig. 8), the portion of the oscillation generating device has a mass that is substantially equal to the a mass of one or more separate weights the at least one training weight (Fig. 8).

6. In regards to claim 7, Abe et al. discloses the kit wherein the oscillation generating device is configured to periodically move a drivable oscillation mass (104, 106, Fig. 8).

7. In regards to claim 8, Abe et al. discloses the kit wherein the oscillation generating device comprises at least one rotary motor (106, Fig. 8), the at least one rotary motor is adapted to oscillate the drivable oscillation mass to produce a selected oscillation movement (Fig. 8).

8. In regards to claim 9, Abe et al. discloses the kit wherein the oscillation generating device comprises a control device adapted to change an oscillation amplitude and/or oscillation frequency produced by the oscillation generating device (130, 132, Fig. 8).

9. In regards to claim 10, Abe et al. discloses the kit wherein the oscillation generating device is a generally disc-shaped dumbbell weight (Fig. 8).

Art Unit: 3764

10. In regards to claim 16, Abe et al. discloses the training device wherein the oscillation generating device has a shape similar to at least a portion of the at least one training weight (Fig. 8).

11. In regards to claim 11, Abe et al. discloses a training device comprising: actuating element adapted to introduce training force produced by an individual into the training device (112, Fig. 8); a force generating device comprising an oscillation generating device adapted to produce an oscillation (104, 106, 114, 116, 118, Fig. 8); and a training weight (108, Fig. 8), comprising one or more individual weights, that generate a counterforce acting against the training force and with an oscillation generating device, the oscillation generating device operable to produce an oscillation acting on and superimposed on the counter-force, wherein the oscillation generating device is a single weight (108, 104, 106, 116, 118, Fig. 8).

12. In regards to claim 12, Abe et al. discloses the device wherein the oscillation generating device coupled to a region of the training device configured to be moved by the training force (112, Fig. 8).

13. In regards to claim 13, Abe et al. discloses the device wherein the oscillation generating device includes a movable oscillating mass (104, Fig. 8).

14. In regards to claim 14, Abe et al. discloses the device wherein the training device is a dumbbell in which the oscillation generating device is integrated (Fig. 8).

15. In regards to claim 15, Abe et al. discloses the device wherein the dumbbell is provided with contacts via which an energy supply device of the oscillation generating device can be recharged (134, Fig. 8).

Art Unit: 3764

16. In regards to claim 17, Abe et al. discloses the device wherein each of the weights of the training weight is a plate (108, Fig. 8) having a shape similar to the oscillation generating device (110, Fig. 8).

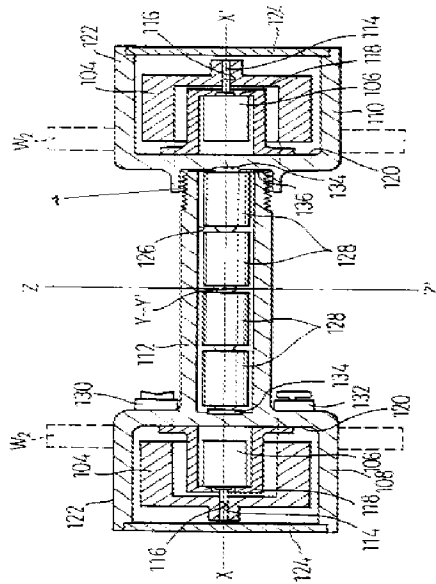


Figure 1: Fittings

17. Claims 1, 3, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Yu (US Pat. No. 6,039,679). Yu discloses a retrofit kit (10, Fig. 3) for a training device, the training device being adapted to be operated by a training force applied by an individual (Fig. 3) and having at least one training weight (10, Fig. 3) to produce a counter-force opposing the training force due to the at least one training weight, the retrofit kit comprising: an oscillation generating device (30, 32, 34, 36, 38, Fig. 3) adapted to be fitted to the training device (26, Fig. 3) and to generate an oscillation acting on and modulating the counterforce, the oscillation generating device being formed as a single weight (Fig. 3).

Art Unit: 3764

18. In regards to claim 3, Yu discloses the kit wherein the oscillation generating device is adapted to be positioned on the at least one training weight (30, 32, 34, 36, 38, Fig. 3).

19. In regards to claim 9, Yu discloses the kit wherein the oscillation generating device comprises a control device adapted to change an oscillating amplitude and/or oscillation frequency produced by the oscillation generating device (64, 66, 68, 70, 72, 74, Fig. 3).

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe et al. (US Pat. No. 5,807,215) in view of Jordan (US Pat. No. 6,338,702). Abe et al. discloses the invention substantially as claimed being described above. However, Abe et al. does not directly disclose the kit wherein the oscillation generating device is positioned along a path of the training force, the path extending to a force generating device which produces the counterforce. Abe et al. also does not directly disclose the kit wherein the counterforce is transferred through the oscillation generating device.

22. Jordan teaches a device for a holding a dumbbell while doing triceps exercise (Figs. 5, 6, 7).

Art Unit: 3764

23. It would have been obvious to one have ordinary skill in the art to attach the device of Jordan to the dumbbell of Abe et al. in order to allow for better grip on the dumbbell while the user performs triceps exercises. When Jordan is combined with Abe et al. the oscillation generating device is position along a path of the training force and the counterforce is transferred through the oscillation generating device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ZACKARY SCHOEMER whose telephone number is (571)270-3814. The examiner can normally be reached on Mon.-Thurs. 8:00 a.m.-4:15 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571) 272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3764

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Z. S./

Examiner, Art Unit 3764

July 23, 2008

/LoAn H. Thanh/

Supervisory Patent Examiner, Art Unit 3764